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Transportation Safety Board
of Canada



Bureau de la sécurité des transports
du Canada

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**ANNUAL REPORT TO PARLIAMENT
ON THE APPLICATION OF
THE ACCESS TO INFORMATION ACT**

01 APRIL 2010 TO 31 MARCH 2011

Canada

Transportation Safety Board
of Canada



Chair

Bureau de la sécurité des transports
du Canada

Présidente

Place du Centre
200 Promenade du Portage
4th Floor
Gatineau, Quebec
K1A 1K8

The Honourable Peter Penashue, P.C., M.P.
President of the Queen's Privy Council for Canada
House of Commons
Ottawa, Ontario
K1A 0A6

Honourable Minister:

In accordance with section 72 of the *Access to Information Act*, the Transportation Safety Board of Canada is pleased to submit to Parliament this report on its activities relating to the application of the Act for the period 01 April 2010 to 31 March 2011.

Sincerely,

Wendy A. Tadros

Canada

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1.0 *Introduction*

Pursuant to section 72 of the *Access to Information Act*, the Transportation Safety Board of Canada (TSB) is pleased to table in Parliament this report on its activities relating to the application of the Act. The report covers the period from 01 April 2010 to 31 March 2011.

The purpose of the *Access to Information Act* is to provide a right of access to information in records under the control of government institutions such as the TSB.

The *Canadian Transportation Accident Investigation and Safety Board Act* provides the legal framework that governs TSB activities. Our mandate is to advance transportation safety in the marine, pipeline, rail and air modes of transportation by:

- conducting independent investigations, including public inquiries when necessary, into selected transportation occurrences in order to make findings as to their causes and contributing factors;
- identifying safety deficiencies, as evidenced by transportation occurrences;
- making recommendations designed to eliminate or reduce any such safety deficiencies; and
- reporting publicly on our investigations and on the findings in relation thereto.

More information on the TSB is available at www.bst-tsb.gc.ca.

The TSB's administration of its Access to Information and Privacy (ATIP) activities is in accordance with the government's stated principles that government information should be available to the public with only specific and limited exceptions. Furthermore, the TSB treats personal information in compliance with the code of fair information practice expressed in the *Privacy Act*.

The majority of access to information requests made to the TSB pertain to transportation occurrences. Such requests present many challenges to the TSB ATIP Office. In many cases, for example, requests are for a copy of the complete investigation file. Depending on the nature and scope of the investigation, there may be many thousands of often complex records in a variety of media. In addition, the status of the investigation itself may affect the availability of records – for example, early on in the investigation when investigators are still in the field collecting information. As well, the status of the investigation can also affect when certain information may be released under the Act. As considerable expertise is required in the processing of requests, the TSB ATIP function is organized so that ATIP analysts are responsible for reviewing and severing all records, whereas in other organizations, the ATIP analysts rely on the recommendations of the offices of primary interest (OPI). This requires that the analysts establish and maintain good working relationships with the OPI for each request and to remain current with the operations of the various Investigative Modes and their particular activities. On an ongoing basis, it also requires that the analysts develop and maintain a strong knowledge of not only the provisions of the Act but also TSB operations.

The ATIP Office operates within the Information Management (IM) Division of Corporate Services. This ensures effective integration of ATIP requirements into IM planning, policy development, records management systems and practices, and training and awareness activities. The ATIP Office administers both formal requests made pursuant to the Act and informal requests, and provides functional advice and guidance to managers and employees concerning the release of information and protection of privacy. In addition, ATIP analysts are required to exhibit strong consultative and negotiating skills when meeting with requesters, TSB personnel and representatives of the Office of the Information Commissioner.

2.0 Delegation of Authority

As required by the legislation, a delegation of authority is in place. For the purposes of the *Access to Information Act*, the "head of the institution" as defined in section 3 of the Act is the Chair. The Chief Operating Officer, the Director General, Corporate Services, and the Manager, Information Management Division have been delegated powers by the Chair deemed appropriate for the effective administration of the Act and to ensure that the TSB meets all its obligations fairly and consistently.

A copy of the Delegation Order is attached as Appendix A.

3.0 Formal Requests

3.1 Disposition of Requests

Seventy-two (72) new requests were received under the *Access to Information Act* in 2010-2011 and twenty-two (22) requests were brought forward from the previous fiscal year, for a total of ninety-four (94) active requests. Of these, sixty-four (64) requests were completed during the current reporting period, and thirty (30) were carried forward to the next fiscal year.

Of the sixty-four (64) requests completed during the current reporting period, records were fully disclosed to sixteen (16) applicants. Records pertaining to thirty-five (35) requests were released with some portions exempted under sections 16(1)(a), (c)(iii), 19(1), Section 20(1)(a), (b), (c) and (d), Section 21(1)(a), Section 22, Section 23, and Section 24 of the Act. Records did not exist for eleven (11) requests, and two (2) were transferred to other federal government institutions.

3.2 Clients

The majority of new requests, forty (40) came from business/legal firms representing clients affected by or involved in transportation occurrences. Nine (9) requests were received from media sources. Twelve (12) requests were received from members of the public and three (3) from organizations.

3.3 Processing of Requests

The number of new requests received by the ATIP Office in 2010–2011 increased by fifteen (15) or 21% compared with the number received in 2009–2010. The number of completed requests increased by fifteen (15) or 24% compared with 2009–2010.

The ATIP Office makes every possible effort to process requests within the 30-day time limit as required by the legislation. However, many of the requests received by the TSB pertain to third-party information, which requires consultation with the third parties before the information can be released. In addition, in the current fiscal year the ATIP office experienced a temporary reduction in resources due to employee turnover, challenging the organization further.

Of the sixty-four (64) requests processed during the reporting period, twenty-five (25) were completed within the 30-day limit, fifteen (15) were completed in 31 to 60 days, eight (8) were completed in 61 to 120 days and sixteen (16) took longer than 121 days to complete. The average time taken to process a request during the 2010–2011 reporting period was 86.8 calendar days, compared with last year's average of 44.2 calendar days. This processing time is partially explained by the relatively high number of requests (22) from previous years that were completed in 2010–2011. Other factors affecting average processing time include the amount and complexity of requests received, information requiring review, consultations required, training requirements and staffing shortages during the reporting period.

During this period, the ATIP Office was involved in the search, preparation and review of 73,830 pages of information and the reproduction and release of 56,064 pages of information, including reprints of photographs, videotapes and CD-ROM disks containing photographs. Last year, 32,944 pages were reviewed and 20,981 pages were released.

4.0 Fees and Costs

In accordance with the TSB ATIP fee policy implemented on 01 January 2001, the TSB collected \$325.00 in fees during 2010–2011. The TSB maintains the right to waive fees, and the decision to reduce or waive fees is made on a case-by-case basis according to the criteria outlined in its ATIP fees policy. Like most departments, the TSB waives the requirement to pay fees, other than the application fee, if the amount payable is less than \$25.00.

During 2010–2011, the ATIP Office incurred an estimated \$184,812 in costs to administer the *Access to Information Act*. These costs do not include the resources expended by other areas of the TSB to meet the requirements of the Act.

5.0 Other Requests

The ATIP Office received twenty-six (26) consultation requests from other departments involving TSB records in 2010–2011 compared with twenty-seven (27) in 2009–2010.

One hundred and twenty-nine (129) informal requests were received during the reporting period, compared with one hundred and sixty-one (161) last year. The ATIP Office reviewed 11,

910 pages of information and released 11,826 pages to requesters, compared with 74,554 pages reviewed and 67,628 pages released last year. These figures do not include other information requests responded to directly by the Communications Branch, the Macro-Analysis group in the Operational Services Branch, and other areas of the TSB at Head Office and in the regional offices.

In addition, many publications – such as investigation reports, safety studies, statistical reports, communiqués, investigation updates, and annual reports, including ATIP reports to Parliament – are available on the TSB website.

6.0 Complaints and Investigations

Two outstanding complaints from previous reporting periods were filed with the Office of the Information Commissioner (OIC) during the 2009–2010 reporting period.

The first complaint concerned the TSB's decision to withhold some records pursuant to Section 16(1) and Section 19(1) of the *Access to Information Act*, (Act) in response to a request for copies of the reports made and documents concerning an occurrence still under investigation. Following a meeting with the OIC, the TSB consulted with various witnesses pursuant to Section 19(2) of the Act in order to obtain their permission to release their statements. TSB has yet to receive responses to these consultations.

The second pertained to the refusal of access to records related to an ongoing aviation occurrence investigation. These records were exempted under sub-section 16(1)(c)(iii) of the Act. In its response to the requester, the TSB had indicated that certain information would be provided as soon as the investigation report was released to the public. The report was subsequently released to the public and the requester was provided with the records with the exception of records having no relevance to the occurrence. A meeting with the OIC resulted in a recommendation that the records should be released in their entirety. A letter is being written responding to the OIC by TSB's Legal Services.

Two new complaints were received from the OIC in the 2010-2011 fiscal year.

- The first was notification from the OIC that a complaint had been submitted related to a request for a copy of the cockpit voice recordings, (CVR) of a particular occurrence. The information was withheld Pursuant to Section 19(1) of the Act. A letter was subsequently received from the OIC disallowing the complaint based on the fact that the complainant did not respond within the timeframe allowed.
- The second complaint was made to the office of the OIC and related to a list of documents requested concerning an occurrence in 1996. The requester alleged that certain documents should have been made available by the TSB. After meeting with the OIC investigator, an exhaustive search was conducted, wherein additional documents were identified which had been withheld pursuant to Section 19(1) of the act. Subsequently it was advised by the OIC that pursuant to Section 19(2) of the act, an effort should be made to obtain permission for the release of the witness statements. A response is being drafted by the TSB's Legal Services in response to the OIC.

7.0 Appeals to the Courts

There were no appeals before the Courts in the current reporting period.

8.0 Training and Education

Given the responsibilities and knowledge requirements of the TSB ATIP Office, there is a long learning curve for its staff. Continuous on-the-job training is provided to ATIP staff to ensure sound and current knowledge of both ATIP requirements and procedures, as well as TSB operations.

In terms of external training activities, ATIP staff attended the annual Canadian Access and Privacy Association workshop, as well as various workshops organized by the Treasury Board Secretariat throughout the fiscal year. These workshops provided ATIP staff with valuable information on trends and best practices within the ATIP community, updates on recent complaints and court cases, and tools to help improve service standards within the field. Two members of the ATIP Office also attended ATIP training offered by the Canada School of Public Service.

In addition, the TSB has put in place an orientation program for new employees. The ATIP Office prepared and presented five (5) ATIP awareness sessions in 2010-2011 to thirty-eight employees (38): two (2) in English and two (2) in French as well as one (1) bilingual session. The ATIP Office will continue to provide awareness training in future orientation sessions as part of the ongoing program.

9.0 Policies, Guidelines and Procedures

No new or revised access to information related policies, guidelines or procedures were implemented in the TSB during the reporting period.

10.0 Statistics Required by Treasury Board

The statistics required by the Treasury Board Secretariat are found in Appendix B.

Appendix A - Delegation Order

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DESIGNATION ORDERS

Access to Information Act

The Chair of the Transportation Safety Board of Canada, pursuant to Section 73 of the *Access to Information Act*, hereby designates the persons holding the positions of Chief Operating Officer, Director General, Corporate Services and Manager, Information Management Division, Corporate Services, or the persons occupying on an acting basis those positions, to exercise the powers and perform the duties and functions of the Chair as the head of a government institution under the *Act*.

Wendy A. Tadros
Chair

Date: JAN 25 2016

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Appendix B - Statistical Report



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REPORT ON THE ACCESS TO INFORMATION ACT
RAPPORT CONCERNANT LA LOI SUR L'ACCÈS À L'INFORMATION

Institution	TRANSPORTATION SAFETY BOARD OF CANADA BUREAU DE LA SÉCURITÉ DES TRANSPORTS DU CANADA				Reporting period / Période visée par le rapport 2010-04-01 to/à 2011-03-31
Source	Media / Médias 8	Academia / Secondeur universitaire 0	Business / Secteur commercial 51	Organization / Organisme 4	Public 9

<i>Requests under the Access to Information Act / Demandes en vertu de la Loi sur l'accès à l'information</i>	
Received during reporting period / Reçues pendant la période visée par le rapport	72
Outstanding from previous period / En suspens depuis la période antérieure	22
TOTAL	94
Completed during reporting period / Traitées pendant la période visée par le rapport	64
Carried forward / Reportées	30

II Disposition of requests completed / Disposition à l'égard des demandes traitées					
1	All disclosed / Communication totale	16	6	Unable to process / Traitement impossible	11
2	Disclosed in part / Communication partielle	35	7	Abandoned by applicant / Abandon de la demande	0
3	Nothing disclosed (excluded) / Aucune communication (exclusion)	0	8	Treated informally / Traitement non officiel	0
4	Nothing disclosed (exempt) / Aucune communication (exemption)	0	TOTAL		54
5	Transferred / Transmission		2		

III Exemptions invoked / Exceptions invoquées			
S Art. 13(1)(a)	0	S Art. 16(1)(a)	
(b)	0	(b)	
(c)	0	(c)	
(d)	0	(d)	
S Art. 14	0	S Art. 16(2)	
S Art. 15(1) International rel / Relations intern	0	S Art. 16(3)	
Defence / Défense	0	S Art. 17	
Subversive activities / Activités subversives	0	S Art. 18(b)	

1	S Art 18(b)	0	S Art 21(1)(a)	1
0	(c)	0	(b)	0
22	(d)	0	(c)	0
0	S Art 19(1)	34	(d)	0
0	S Art 20(1)(a)	11	S Art 22	1
0	(b)	17	S Art 23	5
0	(c)	13	S Art 24	2
0	(d)	2	S Art 26	0

IV Exclusions cited / Exclusions citées			
S. Art. 68(a)	1	S. Art. 69(1)(c)	
(b)	0	(d)	
(c.)	0	(e)	
S. Art. 69(1)(a)	0	(f)	
(b)	0	(g)	

V Completion time / Durée de traitement	
0	30 days or under / 30 jours ou moins
0	31 to 60 days / De 31 à 60 jours
0	61 to 120 days / De 61 à 120 jours
0	121 days or over / 121 jours ou plus
0	

VI Extensions / Prorogations des délais			
	30 days or under / 30 jours ou moins	31 days or over / 31 jours ou plus	
Searching / Recherche	2		6
Consultation	0		3
Third party / Tiers	2		4
TOTAL	4		12

VII	Translations / Traduction	
Translations requested / Traductions demandées		0
Translations prepared / Traductions préparées	English to French / De l'anglais au français	0
Traductions préparées	French to English / Du français à l'anglais	0

VIII	Method of access / Méthode de consultation
Copies given / Copies de l'original	51
Examination / Examen de l'original	0
Copies and examination / Copies et examen	0

IX Fees / Frais		Net fees collected / Frais net perçus		
Application fees / Frais de la demande	\$325.00	Preparation / Préparation		\$0.00
Reproduction	\$0.00	Computer processing / Traitement informatique		\$0.00
Searching / Recherche	\$0.00	TOTAL		\$0.00
Fees waived / Dispensa de frais		No. of times / Nombre de fois	\$	
\$25.00 or under / 25 \$ ou moins		0	\$	\$0.00
Over \$25.00 / De plus de 25 \$		0	\$	\$0.00

X Costs Couts	Financial (all reasons) / Financiers (raisons)	
Salary / Traitemet	\$	\$160,972
Administration (O and M) / Administration (fonctionnement et maintien)	\$	\$23,840
TOTAL	\$	\$184,812
<i>Person year utilization (all reasons) / Années-personnes utilisées (raisons)</i>		
Person year (decimal format) / Années-personnes (nombre décimal)		2.50



Transportation Safety Board of Canada
Statistical Report Access to Information Act - 2010-11

Additional Reporting Requirements – *Access to Information Act*

In addition to the reporting requirements addressed in form TBS/SCT 350-62 "Report on the *Access to Information Act*", institutions are required to report on the following using this form:

Part III – Exemptions invoked

Paragraph 13(1)(e)	0
Subsection 16.1(1)(a)	0
Subsection 16.1(1)(b)	0
Subsection 16.1(1)(c)	0
Subsection 16.1(1)(d)	0
Subsection 16.2(1)	0
Subsection 16.3	0
Subsection 16.4(1)(a)	0
Subsection 16.4(1)(b)	0
Subsection 16.5	0
Subsection 18.1(1)(a)	0
Subsection 18.1(1)(b)	0
Subsection 18.1(1)(c)	0
Subsection 18.1(1)(d)	0
Subsection 20(1)(b.1)	0
Subsection 20.1	0
Subsection 20.2	0
Subsection 20.4	0
Subsection 22.1(1)	0

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Part IV – Exclusions cited

Subsection 68.1	0
Subsection 68.2(a)	0
Subsection 68.2(b)	0
Subsection 69.1(1)	0

Note: If your institution did not invoke any exemptions or cite any exclusions noted above during the reporting period, this must be stated explicitly.

